

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
SEPTEMBER 15, 2004

Commission Members Present: Peter Hillman, Susan Cameron, Reese Hutchison, Ellen Kirby, Edwin Lewis and Nina Miller

Commission Staff Present: Nancy Sarner

Court Monitor: Bonnie Syat

General Meeting:

Old Business:

Chairman Hillman read the following agenda item:

Amendment of EPC-41-2004, Robert & Debra Lee, 8 North Road, requesting the modification of an approved grading plan and perform related site development activities. The property is located on the east side of North Road approximately 375 feet northeast of the intersection of North Road and Butlers Island Road, shown on Assessor's Map #67 as Lot #74.

Attorney Wilder Gleason presented the permit amendment request to the Commission. He explained that the wetland permit was approved approximately one month earlier, and that the modification was proposed to address internal problems with meeting the flood regulations. He said that the grade would be dropped in the front of the garage from 13.5' to 12.7', requiring less fill and truck traffic, and that the lower garage elevation would allow for greater flexibility with interior flow and use. He added that there would be no change in runoff, as confirmed within the Stearns & Wheler report.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission approve the permit amendment request to modify the plan and approved grading for Wetland Permit #EPC-41-2004. The permit is approved subject to the conditions and stipulations in the resolution for #EPC-41-2004. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

Continuation of EPC-42-2004, Lisa Michels, 34 Lake Drive, proposing a hot tub, and perform related site development activities within a regulated area. The property is located on the west side of Lake Drive approximately 550 feet north of the intersection of Philips Lane and Lake Drive, shown on Assessor's Map #30 as Lot #4.

No one was present to represent the application. The Commission discussed that they wanted the opportunity to further discuss the application with the property owners, or their agent.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission deny without prejudice to reapply the proposed application for a hot tub within regulated areas. The application was denied based on the failure of the applicant to discuss the proposed project with the Commission to confirm and/or clarify project details. The motion was made Mr. Kenyon, seconded by Mr. Hillman, and unanimously approved.

Chairman Hillman read the following agenda item:

Continuation of EPC-60-2004, Margaret Ann Rague, 63 Dubois Street, proposing the installation of a fence, and perform related site development activities within a regulated area. The property is located on the west side of Dubois Street approximately 415 feet south of the intersection of Dubois Street and LaForge Road, shown on Assessor's Map #45 as Lot #80.

Ms. Rague was present to discuss her application with the Commission.

Mr. Hillman said that he was concerned that the recently submitted sketch of the proposed fence does not show the distance from the watercourse.

Ms. Rague said that she was not sure what were the Commission's concerns. Ms. Cameron explained that issues raised included the collection of debris by the fence and channelization of the watercourse. Ms. Rague asked if, in her experience, Ms. Cameron had seen this problem. Ms. Cameron replied that debris will be caught in the fence.

Mr. Hillman asked if the fence would be raised 2" from the ground for wildlife. Ms. Rague stated that she wished there was wildlife, and though she has not seen any, she suspects that there are Norwegian rats. She added that the fence would not block wildlife because of the opening in the back.

Mr. Hillman and Mr. Hutchison asked if the neighbor's fence had been permitted. Ms. Sarner replied that it was, under the name of McPartland.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-60-2004. The work is approved with the condition that the fence be installed no closer than 3' from the edge of the watercourse. The fence shall be installed as shown on the sketch of the fence location overlaid on the property map entitled "Sketch Showing Location Survey of Property Owned by Bilt-Rite Homes, Inc., Noroton Heights, Darien, Conn." by Peter P. Myer, Land Surveyor, dated Oct. 21, 1954, as modified by this conditional approval. The motion was made by Ms. Cameron, seconded by Mr. Hutchison, and unanimously approved.

New Business:

Chairman Hillman explained that it is the Commission's prerogative to address items out of order, and read the following agenda item:

EPC-83-2004, Ronald & Hikoko Rawald, 100 Pembroke Road, proposing the amendment of the Town's Wetlands and Watercourses Map. The property is located on the south side of Pembroke Road approximately 650 feet from the intersection of Brookside Road and Pembroke Road, shown on Assessor's Map #1 as Lot #96.

The applicants were not present to discuss their proposal with the Commission. Ms. Cameron noted that she wanted to discuss the disposal of wood chips near the wall within the regulated area with the owners. The Commission decided to table the application and reschedule it for the October 6, 2004 meeting.

Chairman Hillman read the following agenda item:

EPC-81-2004, Dianne Saitta, 16 Arrowhead Way, proposing the correction of a violation of the Inland Wetlands and Watercourses Regulations, and perform related site development activities within a regulated area. The violation involves the unauthorized clearing and filling of wetlands and setback areas. Discussion shall include a review of the unauthorized regulated activities and consideration of proposed remediation. The property is located on the west side of Arrowhead Way approximately 430 feet south of the intersection of Arrowhead Way and East Trail, shown on the Assessor's Map #64 as Lot #25.

Matt Popp of Environmental Land Solutions and Dianne Saitta, property owner, were present to discuss the application and address questions from the Commission.

Mr. Hillman said that since the last time Ms. Saitta was before the Commission, there is a prospective buyer who is represented at the meeting by Attorney Urban Mauville.

Mr. Popp reviewed that the violation involved the placement of 1" to 4" of fill within a lawned wetland area and clearing of the adjacent sloped setback area. He said that the existing drain was investigated and still drains toward the wetland area. He said that the clearing involved mostly the removal of Burning Bush and approximately four Maples. He reviewed the proposed restoration plan and said that, instead of using Burning Bush as a replacement plant, he is proposing native species. He said that they proposed keeping the fill because the area had been previously maintained as lawn.

Ms. Cameron asked how many trees had been removed. Mr. Hillman said that it depends on how it is defined because a lot of smaller growth was removed. Mr. Popp replied that four Maples were removed. Ms. Cameron said she would like to see trees added to the plan. Mr. Popp said he did not add more trees because the slope was already wooded. Ms. Cameron stated that she did not want to see the lawn extended.

Ms. Cameron asked if the pipe installed through the crawl space was still functioning. Mr. Popp said that he was not sure. In response to a question, Ms. Cameron and Ms. Sarner speculated that the orange substance is most likely iron bacteria.

Mr. Popp said that he met with the prospective buyer and her landscape designer out at the site. Mr. Hillman said that the new owner would be responsible for the maintenance of the

remediation, and the Commission's decision should be part of the real estate exchange. He informed the applicant that the Commission usually requests that a performance bond be posted for violations.

Atty. Urban Mauville stated that the violation was not on the town land record. He said that title and insurance companies cannot determine compliance with environmental matters. Ms. Sarner explained that, if a Cease and Desist Order had been issued, it would have been filed on the land records. Atty. Mauville said that the current owner has the responsibility for the implementation and overseeing of the restoration work, as well as posting the bond. In response to a question, Atty. Mauville said that the closing is scheduled for two weeks. He said money would be placed in escrow, but that his clients want the current owners to be held responsible for the restoration. Atty. Mauville said that they only found out about the violation approximately three weeks ago. He said he understood about the bond, but was concerned that the new owners would need to take responsibility for the restoration. He requested that, if the Town needed to call the bond, the money be released to his clients. Ms. Sarner explained that the money would be released to the Town, and the Town would do the necessary work. Ms. Cameron said that the Town would make sure that the work is done. Atty. Mauville said that the owners had professionals that could guarantee the plantings, like an arborist. Mr. Lewis noted that the prospective buyers needed to decide what they wanted to do. Mr. Hutchison agreed, and said that the Commission does not need to discuss their contract of purchase. Atty. Mauville said that the current owners should be responsible for the maintenance of the restoration area.

Ms. Sarner said that she spoke with the buyers and explained the restrictions over the regulated area, and the need to apply for approval for clearing, sheds and other activities.

Atty. Mauville said he wanted to discuss the bond with his clients. In response to a question, Mr. Popp said that the work estimate would be approximately \$2,500 to \$3,000. Mr. Hillman recommended that the Commission require a \$3,000 bond, with the half returned after the first growing season, in 2005, and the remaining amount after the second growing season.

Atty. Mauville said that his clients were willing to tend to the plantings, and that a private escrow arrangement would be in place with the Saittas. He said that the bond would not protect his clients. Ms. Cameron explained that the performance bond would be required to ensure that the work be done. Atty. Mauville stated that the bond money would not go to his clients. Ms. Cameron said that they might be able to release the money to the new owners. Ms. Sarner explained that it was against town policy to release the bond money to the new owners. Mr. Hutchison said that typically money is held in escrow by the seller to protect the new buyers.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission approve with stipulations the above-referenced application. The application is approved with the condition that a performance bond in the amount of \$3,000 shall be posted with the Planning and Zoning Office to ensure the restoration of the wetlands and buffer area, and the compliance with this approval. The bond shall be filed prior to the commencement of work activity. The bond shall be held for two (2) growing seasons. Half of the amount (\$1,500) shall be returned after the first growing season (no earlier than year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced. The work

is approved as shown on the plan entitled “[Draft] Environmental Planting Plan, 16 Arrowhead Way, Darien, CT” by Environmental Land Solutions, LLC, dated June 30, 2004. The motion was made by Ms. Cameron, seconded by Mr. Hillman, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-82-2004, Robert & Sandra Lovegrove, 4 Valley Forge Road, proposing the amendment of the Town’s Wetlands and Watercourses Map, installation of a split rail fence, removal of invasive species, removal of trees, wetland plantings, creation of a woodchip walking path, and perform related site development activities within a regulated area. The property is located on the northeast side of the cul-de-sac for Valley Forge Road approximately 540 feet north of the intersection of Half Mile Road and Valley Forge Road, shown on Assessor’s Map #2 as Lot #29.

Aleksandra Moch of Wet Soils, LLC presented the application on behalf of Mr. and Mrs. Lovegrove.

Ms. Moch reviewed the findings of the wetlands delineation, explaining that the wetlands to the north had been piped to a pond south of the subject property, and an intermittent watercourse is located to the east of the existing swimming pool. Ms. Moch confirmed that a licensed surveyor located the wetland flagging on the survey. Mr. Kenyon asked if the 50’ setback had been shown on the plan. Ms. Moch replied that it is shown, and indicated its location on the plan.

Upon further discussion of the soils report and survey, the following motion was made: That the Commission accept the field located wetland delineation by Wet Soils, LLC. The Town’s Inland Wetland and Watercourses Map shall be revised under the EPC’s annual map update to reflect the May 31, 2004 wetlands delineation for 4 Valley Forge Road by Wet Soils, LLC, as shown on the survey entitled “Survey of Property for Robert H. Lovegrove and Sandra Lovegrove, 4 Valley Forge Road, Darien, Conn.” by The Peter P. Myer Co., dated July 6, 2004. The motion was made by Mr. Hillman, seconded by Ms. Miller, and unanimously approved.

Ms. Moch reviewed that the purpose of the proposal is to create a more open area, including a small recreational area, and to see more of the property. She said that the proposal included the installation of a split rail fence, wood chip path, and plantings, and the removal of invasive species. She explained that the path is proposed to open the back property to passive enjoyment and access the natural area.

Ms. Cameron said that she does not really like the removal of the trees, but felt that the plan would improve the biodiversity of the area. She recommended that Round-up be applied to the cut stems of the Multiflora Rose in the fall, and noted that Japanese Barberry is difficult to remove. Ms. Moch said that the Round-up would be painted on and not sprayed, and the invasive would be removed and managed, and replaced with low shrubs. She reviewed site photographs.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission approve modified Wetland Permit Application #EPC-82-2004. The work is approved as shown on the plan by Wet Soils, LLC, received by the EPC during the September 15, 2004 meeting and overlaid on the plan entitled “Survey of Property for Robert H. Lovegrove

and Sandra Lovegrove, 4 Valley Forge Road, Darien, Conn.” by The Peter P. Myer Co., dated July 6, 2004. The invasive plant species shall be managed in accordance with the recommendations by Wet Soils, LLC, entitled “Invasive Species Management Recommendations for 4 Valley Road,” received by the Planning and Zoning Office on September 10, 2004. The motion was made by Mr. Hillman, seconded by Ms. Cameron and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-86-2004, Rick A. Corbo on behalf of Richard & Angela Bolduc, 89 Old Kings Highway South, proposing the amendment of the Town’s Wetland and Watercourses Map. The property is located on the south side of Old Kings Highway South approximately 650 feet southwest of the intersection of Andrews Drive and Old Kings Highway South, shown on Assessor’s Map #63 as Lot #79.

Rich Corbo, A.I.A., presented the application to the Commission on behalf of Mr. and Mrs. Bolduc.

Mr. Kenyon said he once owned the property, four or five owners before the Bolducs, and felt he could sit impartially for the discussion and deliberation of the application. There were no objections.

Mr. Hillman announced that the Commission members have reviewed and are familiar with the application materials.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission accept the field located wetland delineation by William Kenny Associates, LLC. The Town’s Inland Wetland and Watercourses Map shall be revised under the EPC’s annual map update to reflect the May 24, 2004 wetlands delineation by William Kenny Associates, LLC, and shown on the July 9, 2004 survey entitled “Map of Property Prepared for Richard W. Bolduc and Angela Bolduc, Darien, Connecticut,” by Dennis A. Deilus. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman announced that the Applications #EPC-84-2004, Anna Durkovic, 2 Harriet Lane and #EPC-85-2004, Steve & Donna Melz, 10 Point O Woods Road South would be postponed and scheduled as the first agenda items for the October 6, 2004 meeting.

Chairman Hillman read the following agenda item:

Preliminary Discussion of Pending Violation, Robert Castells, 215 Brookside Road, regarding disturbance of a Conservation Easement Area, violation of the Town’s Inland Wetland and Watercourses Regulations, and related unauthorized site activities within a regulated area. The violation involves the unauthorized clearing of trees and understory vegetation, and associated impacts to a conservation easement area, and regulated setback and wetland areas. Discussion shall include a review of a remediation plan and the unauthorized regulated activities and consideration of proposed remediation. The property is located on the west side of Brookside Road approximately 287 feet south of the intersection of the intersection of Three Wells Lane and Brookside Road, shown on Assessor’s Map #5 as Lot #17-1.

Matt Popp of Environmental Land Solutions was present on behalf of Robert Castells.

Mr. Hillman stated that Mr. Keating's letter regarding the violation was very clear. He recommended that more trees be added to the restoration plan. Mr. Popp said that he understood, and had told Mr. Castells to expect the request from the Commission.

Mr. Popp reported that approximately 15 large Maples had been removed. Ms. Cameron said that the clearing activity also disturbed remaining trees, since the trees located at the new edge of the woods lost the support they once had.

Mr. Hutchison recommended that a Public Hearing be held. Ms. Sarner reported that the Planning and Zoning Office received a wetland permit application for a remediation plan, and if they can meet the noticing deadline, a hearing may be possible for October 6, 2004. Mr. Hillman requested that Mr. Popp work with Ms. Sarner regarding the scheduling of the hearing, and that the contractor attend the hearing.

Chairman Hillman read the following agenda item:

Partial Bond Release for EPC-91-2002, Castlegate Corporation, 6 Point O' Woods Road South, for a performance bond required to ensure that tree removal and wetland plantings be conducted in compliance with wetland permit approval.

During their inspection of the planted area, several members noted that the approved planting plan had not been followed. The biggest concerns raised during the discussion for the partial bond release were the fact that the invasive species Burning Bush has been planted within the protected area, and that an unauthorized play structure within wetland setbacks. It was the consensus of the Commission that the discussion be continued so that the members could revisit the site.

Public Hearing:

Chairman Hillman read the following agenda item:

EPC-79-2004, Wee Burn Country Club, 410 Hollow Tree Ridge Road, proposing the demolition and reconstruction of maintenance structures, relocation existing watercourse, fill wetlands, creation of new wetland area as mitigation, and related site development activities within regulated areas. The property is located on the northeast side of Hollow Tree Ridge Road, north of the intersection formed by Hollow Tree Ridge Road and Hanson Road, shown on Assessor's Map #7 as Lots #13, #64 & #66.

Mr. Hillman explained to the applicant that the Commission could not read newly submitted materials that night, and would continue the hearing.

Atty. Maslan presented the application on behalf of the Wee Burn Country Club. He introduced Stephen Tomme and Jim Schell from the Club's board, Doug Druggo, golf superintendent, Warren Burdoc, acting general manager, John Pugliesi, P.E. of Edward J. Frattaroli, Inc., Kimberly Clarke of Loureiro Engineering Associates, Judy Slayback of Environmental Land Solutions, and his associate, Attorney Amy Garvin.

Atty. Maslan explained that the project area was located in the middle of the Country Club property and self-contained; therefore, impact to neighboring properties is not anticipated. Mr. Hillman asked if anyone from the public was present to hear the presentation. There was no response.

Atty. Maslan reviewed site photographs. He reported that four storage tanks have been removed, two aboveground and two underground storage tanks (USTs), which would be addressed later in the presentation. He reviewed pictures of the existing buildings submitted in the packet dated September 8, 2004, "Wee Burn Country Club Maintenance Facility Existing Conditions Photographs."

Mr. Schell reviewed the history of the project and said that a two-page memorandum regarding alternatives had been submitted. Mr. Hillman said that the Commission members needed time to review the new materials. Mr. Schell summarized that the club worked with an architect to reposition and design the facility for the best environmental plan. He said that the work would involve the cleaning of contaminated soils and improvement of the operation of fertilizers. He said he invited neighbors to review the plan, and only six attended. He said that the area is virtually invisible from off site and is surrounded by wet areas, which he would have Ms. Slayback discuss.

Atty. Maslan introduced Mr. Pugliesi. Mr. Pugliesi reviewed the overall drainage plan, explaining that the drainage would pick up surface runoff, be equipped with oil and grit separator, and discharge to the wetlands. He indicated the areas of wetlands, indicating the one area near the existing barn structure that would be filled. He said that the existing drainage system would be rerouted around the new buildings, and that the man-made ditch, or watercourse, would be relocated, requiring that a section of the channel be piped.

Mr. Pugliesi reviewed the proposed increase in impervious area, stating that there would be an increase from 29,900 square feet in the general vicinity or $\pm 10,500$ square feet in the regulated area, to the proposed 59,900 square feet in the general vicinity or 19,560 square feet in the setback, including the area of the lost or filled wetlands. He said that it would be an increase of 9,000 square feet within the setback though an area of setback would not exist after the smallest wetland area is filled. Mr. Pugliesi explained that there would be no increase in runoff from the club property because the runoff would be attenuated by time it leaves site since the property is so large. He said that the oil/grit separator would improve water quality, and that existing disturbed soil and mud areas would be paved for stabilization. He said that Ms. Slayback would discuss the wetlands. Mr. Hillman said that he thought that the drainage aspect of the project had been well thought out and presented. Ms. Cameron expressed concern regarding the impervious surface, and that the regulated area would not be the same because of the loss of the wetland area. Mr. Pugliesi said that the numbers are based on existing conditions, not on the proposed conditions of the eliminated wetlands. Mr. Pugliesi reviewed that Alternative #1 proposes not changing watercourse and was not chosen because it does not address existing flow problems, Alternative #2 was not chosen because of the steep slope, and Alternative #3 does not involve the steep slope and does not require tree removal. He said that Ms. Slayback proposed a wetlands creation area to enhance design discharge.

Atty. Maslan added that they would move the water flow away from the maintenance activities and then introduced Ms. Slayback.

Ms. Slayback explained that they studied the site off and on with the project team for well over a year. She said they wanted to accommodate the Club's needs, conduct the site upgrade and environmental cleanup, and meet the DEP's requirements for the maintenance facility operations.

Ms. Slayback reviewed the four wetland areas within the project site, going into detail regarding the 4' by 10' wetland "swale" near the barn, the excavated irrigation pond, and surrounding wetlands. Ms. Slayback explained that the wetland "swale" is an impounded area because of the adjacent slopes and does not meet the criteria of a vernal pool, and that the larger wetland area surrounding the pond is overgrown with invasives and is used for material and vehicle storage. She added that the dredged spoils from the creation of the pond were placed at its edge, and that the pond is now shallow, only $\pm 2'$ deep, because of sedimentation. She explained that the watercourse is a hand dug ditch created to handle overflow from the pond. She said that the wetlands in the area are not in a natural configuration, and were part of a larger wetlands corridor years ago.

Ms. Slayback reviewed that the proposed improvements included the roadway, driveway, and buildings. She said that, in order to do the grading for the project, the intermittent wetland "swale" needs to be filled because of the steep grade toward the existing storage building. Mr. Hillman noted that the relocation of the watercourse is shown on the "preferred" plan. Atty. Maslan agreed, stating that the "preferred" design is shown on the Grading and Utility Plan – Alternative #3 by Edward J. Frattaroli, Inc. Ms. Slayback said that Alternative #2 moves the watercourse closer to where it discharges now, but Alternative #3 is preferred. She said the area may still be considered a wetland but would be regraded. Ms. Slayback said that the total restoration equaled 4,300 square feet if the watercourse is not relocated, and 5,300 square feet if the watercourse is moved. She said that they would remove invasive species and the stored materials from the regulated area, but would keep the good plants, and would install a split rail fence along the 50' buffer to separate the natural area from the maintenance facility. Ms. Slayback said that the water would overflow into the planted area, and there is not much difference in existing elevation and restored area's proposed grade. She said that the relocated watercourse would include additional plantings and crossing of the roadway. She reviewed the conceptual cross-section of the relocated watercourse. She recommended that the watercourse location be staked around important trees. She explained that they would excavate towards the pond, and not break through the pond bank until the channel is stabilized and seeded, and the check dam is stabilized. She said that, if it is not relocated, the watercourse would stay as it is.

Ms. Slayback reviewed the filling of the wetland soils area and stated that the only wetland plants in the area are Red Maples. In response to a question, Ms. Slayback explained that Alternative #2 and Alternative #3 of Mr. Pugliesi's plans would use the same plantings and would not disturb the larger trees. Mr. Hillman noted that the mitigation area exceeds the area of disturbance, as proposed on the "preferred" plan. Ms. Slayback said the restoration area exceeds the disturbed area by three times. She reviewed that $\pm 1,800$ square feet would be disturbed under Alternative #2 or Alternative #3, and the mitigation area would equal $\pm 3,300$ square feet. Ms. Slayback said she liked the mitigation because they would restore the degraded wetland area and remove invasive species. Ms. Miller asked about long-term maintenance. Ms. Slayback said that they would need to continue to remove the invasives, maybe a couple of times a year.

Ms. Miller asked if the staff would be educated regarding the maintenance of the wetlands. Ms. Slayback said that the Club now has an expert on staff. Ms. Slayback said that the elevation of the restoration area would be scraped out to be close to the elevation of the pond, $\pm 2'$ to the surface, to encourage the growth of hydrophytic vegetation. She said that they could adjust the weir if more water is needed in the pond.

Ms. Kirby inquired to the drainage ditch. Ms. Slayback explained that the water sheds toward the southern wetlands, and the ditch is piped down the steeper slope to avoid erosion, and reopens as it gets closer to the wetlands.

Ms. Cameron asked about tree removal. Ms. Slayback said that no trees of 12" dbh or greater would be removed within the swale area, 16 trees would be removed in the setback area, ± 7 trees would be removed in the wetlands, no trees would be removed within the setback for the pond, and ± 12 trees would be removed outside the setback area, depending on the grading. Ms. Cameron confirmed that 23 trees would be removed within the regulated area and a good number and variety would be replanted.

Atty. Maslan said that at the last meeting, the Commission asked for a review of alternatives. He said that the review did not include the relocation of the entire maintenance facility closer to Ox Ridge Road because it had been determined by the Club not to be prudent.

Atty. Maslan said he submitted a September 14, 2004 letter regarding the issue of a State Diversion Permit. He said he explored the question and determined that the Club does not need a diversion permit, and stated that the letter cites regulations, exemptions, and the size of the watershed, which is less than 100 acres. Ms. Cameron said that the State told her that the Club did need the permit. Mr. Hillman noted that it was a matter between the State and the Club. Atty. Maslan submitted a copy of the registration for irrigation purposes, noting that it does not pertain to the configuration of the pond and overflow ditch.

Atty. Maslan said that Ms. Clarke has overseen the removal of the above and underground storage tanks, and the ground tests done on the site, none of which involved the 50' setback, wetlands or watercourse. He said that Ms. Clarke can answer the Commission's questions, but that he wanted to explain that the tank was in poor condition, they notified the DEP and a file was opened.

Ms. Clarke explained that a 1,000-gallon gasoline underground storage tank (UST) and a 500-gallon fuel oil UST were removed on August 27, 2004. Ms. Clarke explained that they found signs of a release and notified the State DEP and local officials from the Town Fire Marshal's Office. She said that there was visible contamination on the groundwater surface and they used oil absorption pads and secured the area for the weekend. She reviewed the boring and well locations on the plan, as well as the zones of impact. She said that, further down gradient, no signs of contamination were found. She confirmed that they cleaned the excavation areas for the gasoline tank, and they found signs of benzene on the eastern side of the excavation. She said they can either excavate to remove all of the contaminated soils or use pits and monitoring wells to find the extent of the release. She reported that they received the lab results today. In response to a question, she explained that the fuel tank was reportable because they found evidence of a release, but that the findings around the gas tank are probably from a historic

release because lead is present. In response to a question, Mr. Druggo replied that the oil tank was approximately thirty years old. Ms. Clarke confirmed that they would follow recording requirements with the State DEP. Ms. Cameron inquired to groundwater contamination. Ms. Clarke replied that no data shows that there is an impact to the groundwater. Mr. Hillman clarified that none of the disturbance occurred within 50' of the wetlands and watercourse. Ms. Clarke agreed. Ms. Clarke confirmed for Ms. Cameron that no groundwater contamination was found and submitted a copy of the report into the record. Atty. Maslan said that, in regard to submitting materials, the applicant could submit anything that they need to give to the State, similar to the Commission's resolution for the Grove Street project.

Mr. Hillman asked if anyone from the public wished to speak regarding the application. Having no response, he asked Atty. Maslan to continue with the presentation.

Atty. Maslan summarized that the project team found Alternative #3 to be the most protective and includes a fairly large mitigation/restoration plan, and that the maintenance facility needs to be upgraded.

Mr. Kenyon recommended that the mitigation area be dedicated as open space. Atty. Maslan said that they could not commit to the condition without review with the Club's Board of Directors.

Ms. Miller said, based on the egregious treatment of the regulated area by the Club, the regulated area should be cleaned before the construction work begins. She recommended that the Commission stipulate that the Club educate its staff and develop a written maintenance plan. Mr. Schell claimed that the work had been going on for a long while. Mr. Hillman explained that Ms. Miller was surprised that the Club did not clean the area before the Commission's review. Mr. Tomme said that the Club is interested in improving the facility, noting that they hired Mr. Druggo to correct past practices. He said that it was a low priority because the maintenance facility is the last part of the golf tour. In response to question, Mr. Tomme explained that Mr. Druggo and the first assistant have the experience and background in stewardship that the Club had never had before, and would "bring the Club out of the dark ages." Mr. Druggo reviewed his credentials, which included a degree in landscape architecture and turf science.

Mr. Hillman stated that the Public Hearing would be continued to allow the Commission time to review the new materials. Atty. Maslan expressed concern regarding the Club's schedule. Ms. Cameron agreed that the members need time to review the new materials, including the large soil and groundwater test data report. Ms. Sarnier noted that the Country Club of Darien, which recently received approval to modify their maintenance facility, required multiple nights of public hearing. Mr. Lewis requested that the hearing remain open in order to review the new materials.

Mr. Kenyon requested that the Club provide an answer regarding the dedication of the mitigation area as open space. Mr. Tomme said that the conveyance would require two-thirds vote of the club membership. Ms. Cameron said that it would not be a conveyance of property. Atty. Maslan disagreed, stating that it was a conveyance. Mr. Hillman explained that Mr. Kenyon would like some explanation regarding the issue for the next hearing.

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES FOR SEPTEMBER 15, 2004
PAGE 12

It was the consensus of the commission that the Public Hearing for #EPC-79-2004 remain open and be continued to the October 6, 2004 meeting.

Chairman Hillman read the following agenda item:

Discussion and Possible Decision for EPC-37-2004, Country Club of Darien, 300 Mansfield Avenue, proposing demolition of two maintenance sheds and garage (sand shed), paving for parking area to be equipped with a filtered drainage system, placement of a dumpster on a new concrete pad, installation of a water line and underground utilities, widening of the main entry road, installation of fencing and stonewall, drainage improvements, headwall, relocation of tee areas, realign cart path, install new cart path, and plantings, and perform related site development activities within a regulated area. The property is located on the east side of Mansfield Avenue approximately 1,800 feet north of the intersection of Mansfield Avenue and Buttonwood Lane, shown on Assessor's Map #5 as Lot #40.

Upon discussion and deliberation of the materials and plans submitted, the following motion was made:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION

PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: SEPTEMBER 15, 2004
EXPIRATION DATE: SEPTEMBER 15, 2009

Application Number:	EPC-37-2004
Applicant Name and Address:	Country Club of Darien, Inc. 300 Mansfield Avenue Darien, CT 06820
Property Address of Proposed Activity:	300 Mansfield Avenue Darien, CT 06820
Name and Address of Applicant's Representatives:	Ken Koch General Manager Country Club of Darien 300 Mansfield Avenue Darien, CT 06820 Attorney Stephen Pierson Pierson Law Firm 777 Boston Post Road Darien, CT 06820

Attorney William Hennessey
Sandak Hennessey & Greco, LLP
970 Summer Street
Stamford, CT 06905

Proposed Activity: Demolition of two maintenance sheds and garage (sand shed), paving for parking area to be equipped with a filtered drainage system, placement of a dumpster on a new concrete pad, installation of a water line and underground utilities, widening, reconstruction and realignment of the main entry road and reconfiguration of parking lots, installation of fencing and stonewall, drainage improvements, headwall, relocation of tee areas, realign cart path, install new cart path, and plantings, and perform related site development activities within a regulated area.

Shown on Tax Assessor's Map #5 as Lots #40.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands and a waterway within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicant's assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met regarding the application for a general meeting on May 19, 2004 and public hearing on June 17, 2004 and July 21, 2004. During the EPC's hearing, the applicant's representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. The general public, including nearby property owners, was provided an opportunity to express their opinions and comment regarding the proposed development.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. PROJECT DESCRIPTION:

The application proposes a number of activities located throughout the Country Club property.

The most significant activity is the demolition of two existing maintenance sheds and a garage/sand shed located within wetland setback areas. The replacement structures would be located outside regulated areas. The existing employee parking located adjacent to the existing maintenance sheds would be removed and reconstructed outside the 50' setback. The parking area would be paved and an oil-separator/filtered drainage system installed. The paved area would extend no closer than 25' to the wetlands. The existing dumpster would remain within regulated areas but would be set upon a new concrete pad. The wetlands area maintained as lawn would be restored with native vegetation.

The application proposes the reconstruction and realignment of the main club entrance, located off of Mansfield Avenue. The roadway would be widened to 21' and the parking areas would be reconfigured. The flow of an existing drainage ditch would be maintained through the installation of a pipe under the new driveway, which would carry water flow into the adjoining pond.

The third phase of the application proposes the installation of a water line from a main located at Mansfield Avenue, to serve the new maintenance facilities and serve as water source for fire protection, and the installation of underground electric lines. The buried lines would replace existing power lines that extend to the water pumping facility, in order to avoid power interruptions and in line with the safety and aesthetic concepts of placing power lines underground when it can be done.

Other proposed regulated activities include the installation of fencing and stonewall, other drainage improvements, installation of a headwall, relocation of tee areas, realignment of an existing cart path, construction of a new cart path, and wetlands and landscape plantings.

B. SITE DESCRIPTION:

The ±138-acre subject property is a landscaped golf course belonging to the Country Club of Darien, located at 300 Mansfield Avenue. The site contains a series of interconnected ponds that are widened and impounded sections of the Goodwives River. The Goodwives River flows from north to south across the Country Club of Darien property. Thomas Pietras, Soil Scientist, from Soil Science and Environmental Services, conducted a wetlands delineation for the area of the irrigation pond in April 2000, and a site-wide wetlands delineation in March 2004. The 2004 flagged wetlands were surveyed and presented as part of the application. According to Mr. Pietras' report, the wetlands have been historically altered as a result of watercourse channelization and piping, pond creation, artificial drainage, clearing, filling and grading.

The maintenance area is accessed from the maintenance entrance off of Brookside Road. The structures predate wetland regulations and do not meet current safety standards. Approximately 17,745 square feet of the maintenance area complex is located within the 50' wetland setback

area. The parking area is for employees only and is unpaved. Approximately 2,500 square feet of wetlands in this area is currently maintained as lawn. Over the years, old drums and storage containers have been left in the regulated area.

The main club facility is accessed from the club's main entrance off of Mansfield Avenue. The existing 16' wide entrance drive is narrower than current standards, and poses safety concerns to the Club. The drive runs along the No. 10 fairway, adjacent to a drainage ditch that drains toward an adjoining pond.

C. HEARING PRESENTATIONS AND RECORD:

1. Plan – “Existing Conditions Presentation Plan Environmental Care Center, Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut,” Dwg. No. SC-1, by Edward J. Frattaroli, Inc., dated July 21, 2004.
2. Plan – “Roadway and Parking Lot Existing and Proposed Conditions, Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut,” Dwg. No. SC-2, by Edward J. Frattaroli, Inc., dated July 21, 2004.
3. Plan – “Proposed Conditions Presentation Plan Environmental Care Center, Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut,” Dwg. No. SC-2, by Edward J. Frattaroli, Inc., dated July 21, 2004.
4. Erosion and Sediment Control Plans:
 - a. “Soil Erosion & Sediment Control Plan for the Environmental Care Center,” Dwg. SC-3, by Edward J. Frattaroli, Inc. dated May 3, 2004.
 - b. “Soil Erosion & Sediment Control Plan and Utility Plan for Roadway and Parking Lot Improvement Plan,” Dwg. No. SC-3, dated April 14, 2004, last revised 05/03/04.
5. Plans – “Utility Plan,” Dwg. No. SC-1 & SC-2, last revised 05/03/04; “Demolition Plan for Grounds and Environmental Care Center,” Dwg. No. SC-1, last revised 05/03/04; “Site Plan for Grounds and Environmental Care Center,” Dwg. No. SC-2, last revised 05/03/04; “Roadway and Parking Lot Improvement Plan, Dwg. No. SC-1 & SC-2, last revised 05/03/04, for “Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut,” by Edward J. Frattaroli, Inc.
6. Topographic Plan – “Topographic Plan Prepared for Country Club of Darien, Darien, Connecticut” by Edward J. Frattaroli, Inc., dated July 21, 2004.
7. “Planting and Lighting Plan, Country Club of Darien, 300 Mansfield Avenue, Darien, CT 09820,” Drawing No. 1~3, by Wesley Stout Associates and Culpen & Woods Architects, dated March 18, 2004, last revised 5/3/04.
8. By reference, #EPC-36-2004, for the adoption of the soils delineation by Thomas Pietras of Soil Science and Environmental Services, Inc., as confirmed by Mr. Pietras' March 8, 9 &

10, 2004 report, and shown on the plan entitled “Wetlands Delineation Map, Prepared for Country Club of Darien, Darien, Connecticut” by Edward J. Frattaroli, Inc., dated April 14, 2004.

9. Drainage Report – “Drainage Summary Report, Prepared for The Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut” by John E. Pugliesi, P.E., Edward J. Frattaroli, Inc., dated July 2004.
10. Report – “Country Club of Darien, Project Narrative and Construction Sequence” by John E. Pugliesi, P.E., Edward J. Frattaroli, Inc., dated May 3, 2004.
11. Report – “Phase I Environmental Site Assessment, The Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut” by AMC Technology, Inc., dated July 21, 2004.
12. Proof of certified mailings, certified June 1, 2004, with the June 1, 2004 notification letter to neighbors from Pierson Law Firm.
13. Letter to Stephen Pierson, Pierson Law Firm, from David Verespy, ASLA, Wesley Stout Associates, dated July 16, 2004, with attached schematic designs Alt. A through Alt. C, dated 7/16/04.
14. Letter to the Environmental Protection Commission from Charles Douglas, dated May 19, 2004.
15. Letter to the Environmental Protection Commission from Robert Lincoln, dated June 16, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Impact to Wetlands and Watercourses:

The Commission received testimony and reviewed written plans and reports from the applicant’s representatives.

As proposed, the application poses both direct and indirect effects on to the wetlands and watercourse. On the salutary side, the work within the maintenance area proposes the removal of existing impervious area and encroachments upon wetland setback area. Disturbance within the 50’ setback would be reduced from 17,745 square feet to 10,821 square feet, equaling a 6,924 square foot reduction of disturbance from the buffer area. The 2,500 square foot wetland area currently maintained as lawn would be restored and replanted with native, wetland vegetation. The realignment of the maintenance drive and associated work on the 10th tee and cart paths, on the other hand, pose additional impact to the wetlands and setback areas. The work for the roadway development poses a net change of 1,456 square feet within wetlands and 5,096 square feet within the 50’ setback area, and the piping of a portion of an existing open drainage ditch. The work for the modification of the 10th tee does not pose any increase in impervious area but would total 2,655 square feet of wetlands disturbance and a net of 3,128 square feet of

disturbance within the 50' setback area. The work for the relocation and development of the cart paths poses a net increase of 871 square feet within the setback area, and no work within wetlands. In summary, the work with the maintenance area poses an increase of 6,924 square feet of protected area, and the work associated with the main entrance realignment poses a total of 4,111 square feet of disturbance within the wetlands and 9,095 square feet of disturbance within the 50' setback area.

Proposed mitigation includes the replanting of lawn wetlands, use of sediment and erosion controls throughout the project, and stabilization of disturbed areas.

The Commission accepts the testimony from the applicant's representatives that the wetlands located near the clubhouse facilities and the maintenance area have been historically disturbed through various site alterations, and that no naturalized, undisturbed wetlands would be disturbed.

2. Impact to Drainage:

The Commission heard testimony from John E. Pugliesi, P.E., and reviewed his May 3, 2004 and July 2004 reports. Within his July 2004 drainage summary report, Mr. Pugliesi reviewed that the property, which is located within the Goodwives River watershed, is broken into six drainage areas, and analyzed the club's project for the areas both within and outside the Commission's jurisdiction, for 2 year, 10 year, and 50 year storm events. The Commission accepts Mr. Pugliesi's findings that there is no anticipated drainage impact from the overall project proposed by the Country Club of Darien.

3. Review of Feasible and Prudent Alternatives:

In order to balance the owner's property rights and project purpose with the need to protect the Town's wetland resources, the Commission has reviewed and considered a number of alternatives for the proposed regulated work activity associated with the main entrance drive to determine what would be the most feasible and prudent design alternative. This review included consideration of the following alternate designs:

1. Creation of a separate exit lane off of the existing main entrance in the vicinity of the fairway #10. This plan was determined not to fully address safety concerns and would still require the piping of a portion of the open drainage ditch.
2. Relocation of the main entrance across fairways #2 and #10. Although this plan would address safety concerns, it would still require the piping of a portion of the open drainage ditch and was rejected by the club because of the major rework required of fairways #2 and #10. The Commission deems the rejection prudent.
3. Expansion of the current application proposal, creating a separate parking and circulation loop off of the main entrance drive. This alternative would pose greater impact to the wetlands, as well as the adjacent fairways, than the current proposal.
4. Creation of a new entrance drive to extend behind the main clubhouse, and abandon the exiting drive near fairway #10. This alternative would pose a greater impact to the wetlands and watercourse, requiring the filling of a portion of the pond near fairway #5.
5. No expansion of the main entrance drive. The Commission considered the testimony from the applicant's representatives regarding safety concerns associated with the

narrow entrance drive, including reports of past accidents involving bicycle riders, and found that “no expansion” was not the most prudent course of action.

4. Potential Impact from Chemical and Pollutants:

The Commission reviewed the Phase I Environmental Site Assessment Report by AMC Technology, received during the July 21, 1004 public hearing. It has been presented to the EPC that the Country Club of Darien shall follow the recommendations of AMC Technology, and shall comply with all current state and federal regulations regarding the storage and use of chemicals and potential pollutants, including petrol chemicals, herbicides and pesticides.

E. DECISION:

The Commission hereby approves the proposal with the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission’s decision.
2. Construction shall be in accordance with the plans submitted to and reviewed by the Commission, entitled:
 - a. “Proposed Conditions Presentation Plan Environmental Care Center, Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut,” Dwg. No. SC-2, by Edward J. Frattaroli, Inc., dated July 21, 2004.
 - b. “Roadway and Parking Lot Existing and Proposed Conditions, Country Club of Darien, 300 Mansfield Avenue, Darien, Connecticut,” Dwg. No. SC-2, by Edward J. Frattaroli, Inc., dated July 21, 2004
3. Four (4) replacement trees shall be installed along the main driveway in the vicinity of fairway #10, although not necessarily of the same like or size of the trees to be removed. The replacement trees size and species shall be approved by Commission staff prior to installation.
4. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
5. The results of the continued site monitoring of the soil impact from the former underground tanks, as discussed within the Phase I Environmental Site Assessment by AMC Technology, Inc., and other areas of concern, be shared with the Commission and such state and local officials that would be appropriate.
6. Sediment and erosion controls shall be installed prior to the commencement of work activity, as shown on the plans entitled:
 - a. “Soil Erosion & Sediment Control Plan for the Environmental Care Center,” Dwg. SC-3, by Edward J. Frattaroli, Inc. dated May 3, 2004.

- b. "Soil Erosion & Sediment Control Plan and Utility Plan for Roadway and Parking Lot Improvement Plan," Dwg. No. SC-3, dated April 14, 2004, last revised 05/03/04.
7. The wetland restoration/replanting within the maintenance project area is an integral part of this approval. The work activity shall not be deemed complete and approval of a Zoning Certificate of Compliance cannot be issued until this required planting is conducted. The required planting is shown on the plan entitled "Planting and Lighting Plan, Country Club of Darien Maintenance Area, 300 Mansfield Avenue, 300 Mansfield Avenue, Darien, CT 06820," Drawing Number SP-3, by Wesley Stout Associates and Culpen & Woods Associates, dated March 10, 2004, last revised 5/3/04.
8. The bottom of the silt fence shall be buried a minimum of 6-inches into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
9. The permittee shall notify the Planning and Zoning Office after the sediment and erosion controls for each phase of construction are in place and prior to commencement of excavation or regrading work for each phase of construction. The Commission staff will inspect the erosion controls to make sure that they are sufficient and as per plan. All sediment and erosion control measures must be maintained until all disturbed areas are stabilized and revegetated.
10. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
11. The work activity is limited to that which is approved. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any increase in the extent of regrading, development, disturbance or impacts within the wetlands or watercourse, or regulated area around the wetlands, or other significant amendments to the approved plan will require prior submission to and review by the entire Commission in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations of the Town of Darien.
12. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
13. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
14. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland, watercourse or setback area, on or off site unless specifically authorized by this permit.

15. The duration of this permit shall be five years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one year from the commencement of the proposed activity.

The motion was made by Mr. Hillman, seconded by Mr. Lewis, and unanimously approved.

Chairman Hillman read the following agenda item:

Discussion and Possible Decision for EPC-58-2004, David Mangini & Casey Elliot,
40 Goodwives River Road, proposing a rear patio, driveway, retaining walls, fill & regrading, stormwater galleries, primary septic system and reserve area, and plantings, and perform related site development activities within a regulated area. The proposed residence is located outside 100' setback for Goodwives River and 50' setback for inland wetlands. The property is located on the east side of Goodwives River Road approximately 1,200 feet southeast of the intersection of Goodwives River Road and Old King Highway South, shown on Assessor's Map #63 as Lot #106-A.

Upon discussion and deliberation of the materials and plans submitted, the following motion was made:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION

RESOLUTION

ADOPTED: SEPTEMBER 15, 2004

Application Number:	EPC-58-2004
Applicant Names and Address:	David Mangini Casey Elliot c/o Casey Elliot 385 Brookside Drive Fairfield, CT 06430
Property Address of Proposed Activity:	40 Goodwives River Road Darien, CT 06820
Name and Address of Applicants' Representative:	Donald P. Strait Landscape Architect Grumman Engineering, LLC 69 East Avenue Norwalk, CT 06851
Proposed Activity:	Rear patio for a new single-family residence, driveway, retaining walls, fill & regrading, stormwater galleries, primary septic system and reserve

area, and plantings, and perform related site development activities within a regulated area

Shown on Tax Assessor's Map #63 as Lots #106-A.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien.

The Environmental Protection Commission met for a general meeting on July 7, 2004 and public hearing for the application on August 4, 2004. During the EPC's hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. The general public, including nearby property owners, was provided an opportunity to express their opinions and comment regarding the proposed development.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. PROJECT DESCRIPTION:

The application proposes the construction of a five-bedroom residence with associated septic system. The proposed regulated activities include the installation of a primary septic system and establishment of a septic reserve area within 200' of Goodwives River, and the construction of a rear patio, driveway, and retaining walls, fill & regrading activity, installation of stormwater system, and planting within 50' of wetlands and 100' of the Goodwives River. The septic system would be constructed using a 'Living Filter' system, and would be located in the front yard of the proposed residence. The proposed residence and existing cottage would be connected to the municipal water. The runoff from the roof leaders would be directed to level spreaders located east of the residence. 24' of drainage galleries would be placed north of the residence to handle runoff from the proposed driveway and parking areas.

The existing cottage would remain, but the kitchen would be removed to make the structure a guesthouse and not a separate residence. The cobblestone paved parking areas for the cottage would be removed and replaced with grass pavers. The existing gazebo that sits over the stream would be removed. New footbridges would be installed to improve access between the proposed main residence and existing cottage. These crossings would be adjusted to occur at the narrowest points of the corridor and/or span the wetlands entirely so that no activities occur within the wetland soils. Gravel paths would be installed to complete the access.

Although certain vegetation and large specimen trees will be preserved, in order to complete the project thirteen trees of 12" dbh or larger would be removed. Replacement trees have been incorporated into the planting plan. Vegetated buffers would be installed between the upland landscaped and driveway areas, located to the north of the proposed residence, and the wetlands.

B. SITE DESCRIPTION:

The ±2.27-acre property is located on the east side Goodwives River Road. The northern section of the site has been previously developed with a one-story cottage and associated septic system and parking areas. A wetlands corridor with an intermittent watercourse flows east-west across the property, south of the developed cottage area, and toward the Goodwives River, which is located west of the subject property across the roadway. A gazebo and footbridges cross the watercourse. The southern and eastern sections of the property have remained undeveloped and maintained in a natural condition. Environmental features include a wooded upland area with a canopy of mostly broad-leaved deciduous trees and some shrub layer, scrub/shrub wetlands that also contain tiered growth, and an intermittent watercourse with fringe wetlands.

C. HEARING PRESENTATIONS AND RECORD:

1. Proposed Plan – “Somerset Builders, 40 Goodwives River Road, Darien, Connecticut” by Grumman Engineering, LLC, dated 06-08-04, last revised 7-28-04.
2. Drainage Report – “Drainage Report Prepared for Proposed Site Improvements Located at 40 Goodwives River Road, Darien, Connecticut” by Dean E. Martin, Grumman Engineering, LLC, dated June 4, 2004.
3. Environmental Study – “Environmental Assessment Report, Somerset Builders, 40 Goodwives River Road, Darien, Connecticut” prepared by Environmental Land Solutions, dated July 28, 2004.
4. Soils Report – “Parcels A & B, 40 Goodwives River Road, Darien, CT, To: William W. Seymour & Associates” by Soil Science and Environmental Services, dated August 1, 2003.
5. Health Approval for 40 Goodwives River Road, dated July 29, 2004, signed by Vincent D. Proto, RS, Director of Environmental Health.
6. “40 Goodwives River Road, Darien, CT – Somerset Builders,” by Glenn M. Barnhard, A.I.A., dated 6/15/2004.
7. “Construction Sequence” from Donald Perry Strait, Landscape Architect, of Grumman Engineering, dated June 14, 2004, revised July 28, 2004.
8. “Construction Narrative, 40 Goodwives River Road, Darien, CT,” by David Mangini, dated June 8, 2004.
9. “Narrative – EPC Application, Somerset Builders, 40 Goodwives River Road, Darien, CT” by Donald Perry Strait, Landscape Architect, of Grumman Engineering, dated June 8, 2004.
10. “Site Plan Studies for Somerset Builders, 40 Goodwives River Road, Darien, CT”.
11. “Alternate House and Driveway Plan, Alternate Septic Plans (narrative), EPC Application, Somerset Builders, 40 Goodwives River Road, Darien, CT” by Casey Elliot, Principal – Somerset Builders, dated June 8, 2004.

12. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, signed by Casey Elliot, undated.
13. Letter of Authorization from (Bonnie) May Richards Tweedy, dated June 8, 2004.
14. Copy of Form Cell Research, Inc. webpage regarding "FORMCELL®," www.formcell.com/formwc2.html, dated 6/15/2004.
15. Copy of Form Cell Research, Inc. webpage regarding "FORMCELL Living Filter®, Effective Leaching Area Rate," www.formcell.com/ct-ela.htm, dated 6/15/2004.
16. Copy of Form Cell Research, Inc. webpage regarding "FORMCELL® Living Filter® Wastewater Infiltration Units, Installation Manual (Connecticut)", www.formcell.com/ctmanual.htm, dated 6/15/2004
17. Letter to the Environmental Protection Commission from Judith C. Groppa, Executive Director of the Darien Historical Society, dated August 3, 2004.
18. Proof of mailings, certified mail receipt dated 7/24/2004.
19. Abutters List.
20. GIS Mailing List for 40 Goodwives River Road, Neighbors within 100 feet of Project Area, dated 7/15/2004.
21. Site Location Map, 40 Goodwives River Road, EPC-58-2004 (GIS generated).
22. Letter to David Mangini and Casey Elliot from Nancy H. Sarner, Environmental/GIS Analyst, dated July 15, 2004.
23. Letter to David Mangini and Casey Elliot from Nancy H. Sarner, Environmental/GIS Analyst, dated June 17, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Impact to Wetlands and Watercourses:

The Commission received and reviewed the stormwater drainage report by Grumman Engineering, dated June 4, 2004, and the environmental assessment report from Environmental Land Solutions, dated June 28, 2004. During the public hearing of August 4, 2004, the Commission heard testimony from engineer Dean Martin of Grumman Engineering and environmental consultant John Anderson of Environmental Land Solutions regarding the installation of the proposed five-bedroom septic system within the front yard of the proposed residence. Mr. Martin testified that the soils found in the front property were suitable to support the five-bedroom primary system and reserve area, that the 'Living Filter' system is a safe and suitable choice for the proposed septic system, and that, based on site conditions, the septic

system would function properly and poses no adverse environmental impact to nearby resources. Mr. Anderson had explained that although a system in the rear yard would be further away from the river, its proximity to the wetlands pose a concern since any failure or leachate would enter the wetlands and subsequently the intermittent watercourse, both of which flow towards the river, providing a quicker path for the pollutants to the river system. Although the members were divided, the majority of the Commission accepts the testimony regarding the primary and reserve septic systems of Mr. Martin and Mr. Anderson.

The majority of the Commission finds that the loss of the upland wooded area and proposed introduction of increased impervious area in close proximity of the wetlands and watercourses poses significant adverse impact to the resources, and that the applicants have not adequately addressed their concern that the long-term productivity of the wetlands and watercourses would not be maintained. Water quality has been shown to become impacted as impervious area on a property, and subsequently within a watershed, increases. The Darien EPC relies on buffer distances and vegetated areas between wetlands and development activities to mitigate pollutants and total suspended solids prior to entering the wetlands. Although the report by Environmental Land Solutions states that “the presence of meaningful herbaceous and woody-stemmed vegetation within the wetland corridor does provide potential for removal of nutrients from runoff entering the wetlands,” and that the proposed planted buffers should provide “adequate” protection, the EPC finds that additional measures could be taken to better minimize impacts (see “Consideration of Alternatives”).

2. Review of Alternatives:

The Commission has reviewed the regulated activities proposed by the application. In doing so, the Commission has considered the applicants’ basic goal, which was presented as new residential improvement, and considered alternatives to the proposal in light of the goal. Pursuant to the State Inland Wetland and Watercourses Act and the Town’s Inland Wetlands and Watercourses Regulations, the Commission cannot issue a permit for a regulated activity that receives a public hearing unless it finds that a feasible and prudent alternative does not exist.

The majority of the Commission found that, based upon their full review, the proposal poses a significant impact to the wetland and watercourses resources and that feasible and prudent alternatives had not been fully addressed and considered by the applicants.

The majority of the Commission found that other more prudent and feasible alternatives exist for the project, including but not necessarily limited to: the construction of a smaller five-bedroom residence; installation of a smaller driveway area; and introduction of larger planted buffers along the southern border to the wetlands corridor. Such reduction in the proposed developed area would not only reduce impervious coverage, but also allow for a greater distance between the developed and resource areas. The applicant could also consider installing additional plantings along the northern boundary of the wetland corridor. The applicant should consider the area created by a recent lot line adjustment as a “blank slate.” The lot was created with the regulated watercourses, wetlands and setback areas identified; therefore, every effort should be made to meet the 50’ wetland setback distance, and the 100’ setback for earth disturbing activities and 200’ setback for septic systems from the Goodwives River, and keep impervious surfaces to a minimum in order lessen impact to the resources.

Two members diverged, concluding that the proposed plan does not meet the standard of significant impact, and therefore further review of alternatives is not necessary.

The Commission considered the alternative of “no new development.” One member found this alternative to be the most prudent and feasible. Another member felt that the construction of a second residence with septic system, in addition to the existing residential cottage with septic system, would not be prudent until town sewer is brought into the area. Since the property has been residentially developed, the Commission finds that neither of these two positions could constitute a “taking” of the land by the Town. In any event, the majority of the Commission finds that, in light of their conclusion that a balance between the development of the property and protection of the resources is possible for this property, the “no build” alternative would infringe upon the reasonable use of the property and justified expected economic value of the land.

The Commission considered the alternative of removing the existing developed area, including the cottage and associated septic and driveway areas. It was the consensus of the Commission that other feasible and prudent alternatives may be available that could maintain the cottage area yet pose less impact and impervious area than the proposed application plan.

E. DECISION:

The Commission concludes that the proposed development does not satisfy the requirements of Section 10.2 of the Inland Wetland and Watercourses Regulations and therefore the Commission does deny without prejudice the application due to the potential impacts on the wetlands and watercourses, and encourages the applicants to investigate other alternatives that would pose less impact to the resources, including, but not limited to, the construction of a smaller residence and/or smaller driveway and parking areas which would reduce the amount of proposed impervious areas and establish greater distances between the developed areas and resources, and the enhancement of proposed mitigation, including but not necessarily limited to, planted buffer areas.

Five members voted in favor of the resolution to deny without prejudice, albeit for different reasons: One would deny the application on the basis that a “no build” alternative would be a more feasible and prudent alternative; another voted for the resolution on the basis that the construction of a second residential structure on the site was premature prior to the installation of town sewer in the neighborhood; and members voted in favor of the resolution, finding that there are more prudent and feasible development alternatives available that would pose less adverse impact to the wetlands and watercourses resources. The two members who voted in opposition to the resolution did so based upon their finding that the proposal does not pose significant impact or major effect to the wetlands and watercourses.

The motion was made by Mr. Hutchison and seconded by Ms. Cameron. Voting in favor of the motion were Mr. Hutchison, Ms. Cameron, Ms. Kirby, Ms. Miller, and Mr. Kenyon. Opposing the motion were Mr. Hillman and Mr. Lewis. The motion was passed with a vote of 5 to 2, with no abstentions.

Postponement of Agenda Items:

The discussions for EPC-59-2004, Edward & Lisa McCarthy, 11 Red Mill Lane, EPC Permitting Procedures for Dredging Projects, and EPC Procedures and Requirements Regarding Performance Bond were postponed, and tentatively rescheduled for the October 6, 2004 meeting.

Adjournment: Having no further business to attend to, the Commission adjourned the September 15, 2004 meeting at approximately 11:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst